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112TH CONGRESS  
2D SESSION

# S. 1409

[Report No. 112-181]

To intensify efforts to identify, prevent, and recover payment error, waste, fraud, and abuse within Federal spending.

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## IN THE SENATE OF THE UNITED STATES

JULY 22, 2011

Mr. CARPER (for himself, Ms. COLLINS, Mr. LIEBERMAN, Mr. BROWN of Massachusetts, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

JULY 12, 2012

Reported by Mr. LIEBERMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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# A BILL

To intensify efforts to identify, prevent, and recover payment error, waste, fraud, and abuse within Federal spending.

1       *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Improper Payments Elimination and Recovery Improvement Act of 2011”.

## **1 SEC. 2. DEFINITION.**

2 In this Act, the term "agency" means an executive  
3 agency defined under section 105 of title 5, United States  
4 Code.

**5 SEC. 3. IMPROVING THE DETERMINATION OF IMPROPER  
6 PAYMENTS BY FEDERAL AGENCIES.**

(a) IN GENERAL.—The Director of the Office of Management and Budget shall on an annual basis—

9               (1) identify a list of high-priority Federal pro-  
10               grams for greater levels of oversight and review—

(A) in which the highest dollar value or majority of governmentwide improper payments occur; or

14 (B) for which there is a higher risk of im-  
15 proper payments;

(2) in coordination with the agency responsible for administering the high-priority program—

(A) establish semi-annual or quarterly targets and actions for reducing improper payments associated with each high-priority program; or

(B) if such targets are in effect on the date of enactment of this Act, establish supplemental targets; and

25                             (3) determine the entities that have received the  
26                             greatest amount of improper payments (or, if im-

1       proper payments are identified solely on the basis of  
2       a sample, the entities that have received the greatest  
3       amount of improper payments in the applicable sam-  
4       ple).

5       **(b) REPORT ON HIGH-DOLLAR IMPROPER PAY-  
6       MENTS.**—

7           **(1) IN GENERAL.**—Subject to Federal privacy  
8       policies and to the extent permitted by law, each  
9       agency on a quarterly basis shall submit to the In-  
10      spector General of that agency, and make available  
11      to the public (including availability through the  
12      Internet), a report on any high-dollar improper pay-  
13      ments identified by the agency.

14           **(2) CONTENTS.**—Each report under this sub-  
15      section—

16           (A) shall describe—

17                  (i) any action the agency—

18                          (I) has taken or plans to take to  
19                                  recover improper payments; and

20                          (II) intends to take to prevent  
21                                  future improper payments; and

22           (B) shall not include any referrals the  
23       agency made or anticipates making to the De-  
24       partment of Justice, or any information pro-  
25       vided in connection with such referrals.

1                             (3) AVAILABILITY OF INFORMATION TO INSPEC-  
2 TOR GENERAL.—Paragraph (2)(B) shall not prohibit  
3 any referral or information being made available to  
4 an Inspector General as otherwise provided by law.

5                             (4) ASSESSMENT.—After the review of each re-  
6 port under this subsection, the Inspector General  
7 shall—

8                                 (A) assess the level of risk associated with  
9 the applicable program and the quality of the  
10 improper payment estimates and methodology  
11 of the agency;

12                                 (B) determine the extent of additional  
13 oversight or financial controls warranted to  
14 identify and prevent improper payments; and

15                                 (C) provide the head of the agency with  
16 any recommendations, for modifying any plans  
17 of the agency, including improvements for im-  
18 proper payments determination and estimation  
19 methodology.

20                             (e) IMPROVED ESTIMATES.—

21                                 (1) IN GENERAL.—Not later than 180 days  
22 after the date of enactment of this Act, the Director  
23 of the Office of Management and Budget shall pro-  
24 vide guidance to agencies for improving the esti-  
25 mates of improper payments under the Improper

1 Payments Information Act of 2002 (31 U.S.C. 3321  
2 note).

3 (2) GUIDANCE.—Guidance under this sub-  
4 section shall—

5 (A) strengthen the estimation process of  
6 agencies by reviewing the underlying validity of  
7 payments to ensure amounts being billed are  
8 proper; and

9 (B) include—

10 (i) access to more complete data as  
11 part of reviews;

12 (ii) ending reliance on self-reporting  
13 of improper payments as a replacement for  
14 estimates, and relying on the development  
15 of a robust process to estimate and iden-  
16 tify improper payments across the agency;

17 (iii) all overpayments in the improper  
18 payments estimate, regardless of whether  
19 improperly paid funds have been or are  
20 being recovered;

21 (iv) ensuring that—

22 (I) the review of payments to em-  
23 ployees shall include analysis of em-  
24 ployee data, including pay grade data,

1                   locality pay, and other factors that af-  
2                   feet pay; and

3                   (H) reviews address high-risk or  
4                   high-dollar personnel payments, in-  
5                   cluding travel, pay, and purchase  
6                   cards;

7                   (v) reassessing high-risk programs to  
8                   better reflect the unique processes, proce-  
9                   dures, and risks of improper payments, in-  
10                  cluding assessments for each program to  
11                  reflect different risk components and bet-  
12                  ter direct corrective actions; and

13                  (vi) confirming that inter-agency  
14                  transfers are proper using a methodology  
15                  comparable to that used to assess program  
16                  level improper payments.

17 **SEC. 4. IMPROPER PAYMENTS INFORMATION.**

18                  Section 2(a)(3)(A)(ii) of the Improper Payments In-  
19                  formation Act of 2002 (31 U.S.C. 3321 note) is amended  
20                  by striking “with respect to fiscal years following Sep-  
21                  tember 30th of a fiscal year beginning before fiscal year  
22                  2013 as determined by the Office of Management and  
23                  Budget” and inserting “with respect to fiscal year 2014  
24                  and each fiscal year thereafter”.

1   **SEC. 5. DO NOT PAY INITIATIVE.**

2       (a) PREPAYMENT AND PREAWARD PROCEDURES.—

3           (1) IN GENERAL.—Each agency shall review  
4           prepayment and preaward procedures and ensure  
5           that a thorough review of available databases with  
6           relevant information on eligibility occurs to deter-  
7           mine program or award eligibility and prevent im-  
8           proper payments before the release of any Federal  
9           funds, to the extent permitted by law.

10          (2) DATABASES.—At a minimum, each agency  
11       shall, before payment and award, check the following  
12       databases (if applicable and permitted by law) to  
13       verify eligibility:

14              (A) The Death Master File of the Social  
15              Security Administration.

16              (B) The General Services Administration's  
17              Excluded Parties List System.

18              (C) The Debt Check Database of the De-  
19              partment of the Treasury.

20              (D) The Credit Alert System or Credit  
21              Alert Interactive Voice Response System of the  
22              Department of Housing and Urban Develop-  
23              ment.

24              (E) The List of Excluded Individuals/Enti-  
25              ties of the Office of Inspector General of the  
26              Department of Health and Human Services.

1           **(b) Do Not Pay List.—**

2           **(1) ESTABLISHMENT.**—There is established the  
3           Do Not Pay List which shall consist of—

4               (A) the databases described under sub-  
5           section (a)(2); and

6               (B) any other database designated by the  
7           Director of the Office of Management and  
8           Budget in consultation with agencies.

9           **(2) OTHER DATABASES.**—In making designa-  
10          tions of other databases under paragraph (1)(B), the  
11          Director of the Office of Management and Budget  
12          shall consider—

13               (A) any database that assists in preventing  
14           improper payments; and

15               (B) the database of incarcerated individ-  
16           uals established under subsection (f).

17           **(3) ACCESS AND REVIEW BY AGENCIES.**—For  
18          purposes of identifying and preventing improper  
19          payment, each agency shall have access to, and use  
20          of, the Do Not Pay List to determine payment or  
21          award eligibility when the Director of the Office of  
22          Management and Budget determines the Do Not  
23          Pay List is appropriately established for the agency.

24           **(4) PAYMENT OTHERWISE REQUIRED.**—When  
25          using the Do Not Pay List, an agency shall recog-

1       nize that there may be circumstances under which  
2       the law requires a payment or award to be made to  
3       a recipient, regardless of whether that recipient is on  
4       the Do Not Pay List.

5       (e) DATABASE INTEGRATION PLAN.—Not later than  
6       60 days after the date of enactment of this Act, the Direc-  
7       tor of the Office of Management and Budget shall provide  
8       to the Congress a plan for—

9                 (1) inclusion of other databases on the Do Not  
10       Pay List;

11                 (2) to the extent permitted by law, agency ac-  
12       cess to the Do Not Pay List; and

13                 (3) the multilateral data use agreements de-  
14       scribed under subsection (e).

15       (d) INITIAL WORKING SYSTEM.—

16                 (1) ESTABLISHMENT.—Not later than 90 days  
17       after the date of enactment of this Act, the Director  
18       of the Office of Management and Budget shall es-  
19       tablish a working system for prepayment and  
20       preaward review that includes the Do Not Pay List  
21       as described under this section.

22                 (2) INITIAL SYSTEM.—The working system es-  
23       tablished under paragraph (1)—

24                         (A) may be located within an appropriate  
25       agency;

1                   (B) shall include not less than 3 agencies;

2                   (C) shall include fraud and improper pay-  
3                 ments detection through predictive modeling  
4                 and other analytic technologies and other tech-  
5                 niques; and

6                   (D) may provide for the use of commercial  
7                 database sources, commercial analysis, and  
8                 other functionality for payment or award re-  
9                 views, as determined appropriate by the Direc-  
10                 tor of the Office of Management and Budget  
11                 for verifying Federal data.

12                 (3) APPLICATION TO ALL AGENCIES.—Not later  
13                 than January 1, 2013, each agency shall review all  
14                 payments and awards for all programs of that agen-  
15                 cy through the system established under this sub-  
16                 section.

17                 (e) MULTILATERAL DATA USE AGREEMENTS.—

18                 (1) IN GENERAL.—Not later than 60 days after  
19                 the date of enactment of this Act, the Director of  
20                 the Office of Management and Budget shall develop  
21                 a plan to establish a multilateral data use agreement  
22                 authority to carry out this section, including access  
23                 to databases such as the New Hire Database under  
24                 section 453(j) of the Social Security Act (42 U.S.C.  
25                 653(j)).

## 1                   (2) GENERAL PROTOCOLS AND SECURITY.—

2                   (A) IN GENERAL.—The multilateral data  
3       use agreements shall be consistent with proto-  
4       cols to ensure the secure transfer and storage  
5       of any data provided to another entity or indi-  
6       vidual—7                   (i) under the provisions of, or amend-  
8       ments made by, this section; and9                   (ii) consistent with applicable informa-  
10      tion, privacy, security, and disclosure laws,  
11      including—12                  (I) the regulations promulgated  
13       under the Health Insurance Port-  
14       ability and Accountability Act of 1996  
15       and section 552a of title 5, United  
16       States Code; and17                  (II) subject to any information  
18       systems security requirements under  
19       such laws or otherwise required by the  
20       Director of the Office of Management  
21       and Budget.22                  (B) CONSULTATION.—The Director of the  
23       Office of Management and Budget shall consult  
24       with—

1                             (i) the Council of Inspectors General  
2                             on Integrity and Efficiency before imple-  
3                             menting this paragraph; and

4                             (ii) the Secretary of Health and  
5                             Human Services, the Social Security Ad-  
6                             ministrator, and the head of any other  
7                             agency, as appropriate.

8                             (f) DEVELOPMENT AND ACCESS TO A DATABASE OF  
9                             INCARCERATED INDIVIDUALS.—

10                             (1) IN GENERAL.—The Attorney General shall  
11                             develop and maintain a database of individuals in-  
12                             carcerated at Federal and State facilities.

13                             (2) AVAILABILITY AND UPDATE.—The database  
14                             developed under this subsection shall be—

15                                 (A) available to agencies to carry out this  
16                             section and prevent waste, fraud, and abuse;  
17                             and

18                                 (B) updated no less frequently than on a  
19                             weekly basis.

20                             (g) PLAN TO IMPROVE THE SOCIAL SECURITY AD-  
21                             MINISTRATION DEATH MASTER FILE.—

22                             (1) ESTABLISHMENT.—In conjunction with the  
23                             Commissioner of Social Security and in consultation  
24                             with stakeholders and the States, the Director of the  
25                             Office of Management and Budget, shall establish a

1 plan for improving the quality and timeliness of  
2 death data maintained by the Social Security Ad-  
3 ministration, including death information reported to  
4 the Commissioner under section 205(r) of the Social  
5 Security Act (42 U.S.C. 405(r)).

6 (2) ACTIONS UNDER PLAN.—The plan estab-  
7 lished under this subsection shall include actions  
8 agencies are required to take to—

9 (A) increase the quality and frequency of  
10 access;

11 (B) achieve a goal of at least daily access  
12 as appropriate; and

13 (C) provide for all States to use modern,  
14 electronic means for providing data.

15 (3) REPORT.—Not later than 120 days after  
16 the date of enactment of this Act, the Director of  
17 the Office of Management and Budget shall submit  
18 a report to Congress on the plan established under  
19 this subsection, including recommended legislation.

20 **SEC. 6. IMPROVING RECOVERY OF IMPROPER PAYMENTS.**

21 (a) IN GENERAL.—The Director of the Office of  
22 Management and Budget shall determine—

23 (1) current and historical rates and amounts of  
24 recovery of improper payments (or, in cases in which  
25 improper payments are identified solely on the basis

1       of a sample, recovery rates and amounts estimated  
2       on the basis of the applicable sample), including spe-  
3       cific information of amounts and payments recovered  
4       by recovery audit contractors; and

5              (2) targets for recovering improper payments,  
6       including specific information on amounts and pay-  
7       ments recovered by recovery audit contractors.

8              (b) RECOVERY AUDIT CONTRACTOR PROGRAMS.—

9              (1) ESTABLISHMENT.—Not later than 90 days  
10       after the date of enactment of this Act, the Director  
11       of the Office of Management and Budget shall es-  
12       tablish a plan for no less than 10 Recovery Audit  
13       Contracting programs for the purpose of identifying  
14       and recovering overpayments and underpayments in  
15       10 agencies.

16              (2) REVIEW OF COMMERCIAL PAYMENTS.—Of  
17       the programs established under this subsection, 5  
18       programs shall review commercial payments by an  
19       agency.

20              (3) DURATION.—Any program established  
21       under this subsection shall terminate not more than  
22       3 years after the date on which the program is es-  
23       tablished.

24              (4) REPORTS.—

1                             (A) IN GENERAL.—Not later than 3  
2                             months after the completion of a program, the  
3                             head of the agency conducting the program  
4                             shall submit a report on the program to Con-  
5                             gress.

6                             (B) CONTENTS.—Each report under this  
7                             paragraph shall include—

8                                 (i) a description of the impact of the  
9                             program on savings and recoveries; and  
10                                 (ii) such recommendations as the head  
11                             of the agency considers appropriate on ex-  
12                             tending or expanding the program.

13 **SECTION 1. SHORT TITLE.**

14                             *This Act may be cited as the “Improper Payments  
15                             Elimination and Recovery Improvement Act of 2012”.*

16 **SEC. 2. DEFINITION.**

17                             *In this Act, the term “agency” means an executive  
18                             agency as that term is defined under section 102 of title  
19                             31, United States Code.*

20 **SEC. 3. IMPROVING THE DETERMINATION OF IMPROPER  
21                             PAYMENTS BY FEDERAL AGENCIES.**

22                             (a) IN GENERAL.—Section 2 of the Improper Pay-  
23                             ments Information Act of 2002 (31 U.S.C. 3321 note) is  
24                             amended—

1                   (1) by redesignating subsections (b) through (g)  
2                   as subsections (c) through (h), respectively;

3                   (2) by inserting after subsection (a) the fol-  
4                   lowing:

5                 “(b) *IMPROVING THE DETERMINATION OF IMPROPER*  
6 *PAYMENTS.*—

7                 “(1) *IN GENERAL.*—The Director of the Office of  
8                   Management and Budget shall on an annual basis—

9                   “(A) identify a list of high-priority Federal  
10                  programs for greater levels of oversight and re-  
11                  view—

12                  “(i) in which the highest dollar value  
13                  or highest frequency of improper payments  
14                  occur; or

15                  “(ii) for which there is a higher risk of  
16                  improper payments; and

17                  “(B) in coordination with the agency re-  
18                  sponsible for administering the high-priority  
19                  program, establish annual targets and semi-an-  
20                  nual or quarterly actions for reducing improper  
21                  payments associated with each high-priority pro-  
22                  gram.

23                 “(2) *REPORT ON HIGH-PRIORITY IMPROPER PAY-*  
24 *MENTS.*—

1                 “(A) *IN GENERAL.*—Subject to Federal pri-  
2         *vacy policies and to the extent permitted by law,*  
3         *each agency with a program identified under*  
4         *paragraph (1)(A) on an annual basis shall sub-*  
5         *mit to the Inspector General of that agency, and*  
6         *make available to the public (including avail-*  
7         *ability through the Internet), a report on that*  
8         *program.*

9                 “(B) *CONTENTS.*—Each report under this  
10      *paragraph—*

11                 “(i) *shall describe—*  
12                 “(I) *any action the agency—*  
13                 “(aa) *has taken or plans to*  
14                 *take to recover improper pay-*  
15                 *ments; and*

16                 “(bb) *intends to take to pre-*  
17                 *vent future improper payments;*  
18                 *and*

19                 “(ii) *shall not include any referrals the*  
20                 *agency made or anticipates making to the*  
21                 *Department of Justice, or any information*  
22                 *provided in connection with such referrals.*

23                 “(C) *PUBLIC AVAILABILITY ON CENTRAL*  
24      *WEBSITE.*—*The Office of Management and Budg-*

1           *et shall make each report submitted under this*  
2           *paragraph available on a central website.*

3           “*(D) AVAILABILITY OF INFORMATION TO IN-*  
4           *SPECTOR GENERAL.*—Subparagraph *(B)(ii)* shall  
5           *not prohibit any referral or information being*  
6           *made available to an Inspector General as other-*  
7           *wise provided by law.*

8           “*(E) ASSESSMENT AND RECOMMENDA-*  
9           *TIONS.*—The Inspector General of each agency

10          *that submits a report under this paragraph*  
11          *shall—*

12           “*(i) review—*

13           “*(I) the assessment of the level of*  
14           *risk associated with the applicable pro-*  
15           *gram, and the quality of the improper*  
16           *payment estimates and methodology of*  
17           *the agency; and*

18           “*(II) the oversight or financial*  
19           *controls to identify and prevent im-*  
20           *proper payments; and*

21           “*(ii) provide recommendations, for*  
22           *modifying any plans of the agency, includ-*  
23           *ing improvements for improper payments*  
24           *determination and estimation method-*  
25           *ology.”;*

1                   (3) in subsection (d) (as redesignated by para-  
2 graph (1) of this subsection), by striking “subsection  
3 (b)” each place that term appears and inserting “sub-  
4 section (c); and

5                   (4) in subsection (e) (as redesignated by para-  
6 graph (1) of this subsection), by striking “subsection  
7 (b)” and inserting “subsection (c).”

8                   (b) *IMPROVED ESTIMATES.*—

9                   (1) *IN GENERAL.*—Not later than 180 days after  
10 the date of enactment of this Act, the Director of the  
11 Office of Management and Budget shall provide guid-  
12 ance to agencies for improving the estimates of im-  
13 proper payments under the *Improper Payments In-*  
14 *formation Act of 2002* (31 U.S.C. 3321 note).

15                   (2) *GUIDANCE.*—Guidance under this subsection  
16 shall—

17                   (A) strengthen the estimation process of  
18 agencies by setting standards for agencies to fol-  
19 low in determining the underlying validity of  
20 sampled payments to ensure amounts being  
21 billed are proper; and

22                   (B) instruct agencies to give the persons or  
23 entities performing improper payments estimates  
24 access to all necessary payment data, including  
25 access to relevant documentation;

1                   (C) explicitly bar agencies from relying on  
2                   self-reporting by the recipients of agency pay-  
3                   ments as the sole source basis for improper pay-  
4                   ments estimates;

5                   (D) require agencies to include all identified  
6                   improper payments in the reported estimate, re-  
7                   gardless of whether the improper payment in  
8                   question has been or is being recovered;

9                   (E) include payments to employees, includ-  
10                  ing salary, locality pay, travel pay, purchase  
11                  card use, and other employee payments, as sub-  
12                  ject to risk assessment and, where appropriate,  
13                  improper payment estimation; and

14                  (F) require agencies to tailor their correc-  
15                  tive actions for the high-priority programs iden-  
16                  tified under section 2(b)(1)(A) of the Improper  
17                  Payments Information Act of 2002 (31 U.S.C.  
18                  3321 note) to better reflect the unique processes,  
19                  procedures, and risks involved in each specific  
20                  program.

21                  (c) TECHNICAL AND CONFORMING AMENDMENTS.—The  
22                  Improper Payments Elimination and Recovery Act of 2010  
23                  (Public Law 111–204; 124 Stat. 2224) is amended—

24                  (1) in section 2(h)(1) (31 U.S.C. 3321 note), by  
25                  striking “section 2(f)” and all that follows and insert-

1       ing “section 2(g) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note).”; and

3                     (2) in section 3(a) (31 U.S.C. 3321 note)—

4                         (A) in paragraph (1), by striking “section  
5                         2(f)” and all that follows and inserting “section  
6                         2(g) of the Improper Payments Information Act  
7                         of 2002 (31 U.S.C. 3321 note).”; and

8                         (B) in paragraph (3)—

9                             (i) by striking “section 2(b)” each  
10                          place it appears and inserting “section  
11                          2(c)”; and

12                             (ii) by striking “section 2(c)” each  
13                          place it appears and inserting “section  
14                          2(d)”.

15 **SEC. 4. IMPROPER PAYMENTS INFORMATION.**

16       Section 2(a)(3)(A)(ii) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) is amended  
17       by striking “with respect to fiscal years following September  
18       30th of a fiscal year beginning before fiscal year 2013 as  
19       determined by the Office of Management and Budget” and  
20       inserting “with respect to fiscal year 2014 and each fiscal  
21       year thereafter”.

22 **SEC. 5. DO NOT PAY INITIATIVE.**

23       (a) PREPAYMENT AND PREAWARD PROCEDURES.—

1                   (1) *IN GENERAL.*—Each agency shall review pre-  
2 payment and preaward procedures and ensure that a  
3 thorough review of available databases with relevant  
4 information on eligibility occurs to determine pro-  
5 gram or award eligibility and prevent improper pay-  
6 ments before the release of any Federal funds.

7                   (2) *DATABASES.*—At a minimum and before  
8 issuing any payment and award, each agency shall  
9 review as appropriate the following databases to  
10 verify eligibility of the payment and award:

11                   (A) *The Death Master File of the Social Se-  
12 curity Administration.*

13                   (B) *The General Services Administration's  
14 Excluded Parties List System.*

15                   (C) *The Debt Check Database of the Depart-  
16 ment of the Treasury.*

17                   (D) *The Credit Alert System or Credit Alert  
18 Interactive Voice Response System of the Depart-  
19 ment of Housing and Urban Development.*

20                   (E) *The List of Excluded Individuals/Enti-  
21 ties of the Office of Inspector General of the De-  
22 partment of Health and Human Services.*

23                   (b) *DO NOT PAY INITIATIVE.*—

24                   (1) *ESTABLISHMENT.*—There is established the  
25 *Do Not Pay Initiative which shall consist of—*

1                   (A) the databases described under subsection  
2                   (a)(2); and

3                   (B) any other database designated by the  
4                   Director of the Office of Management and Budget  
5                   in consultation with agencies.

6                   (2) OTHER DATABASES.—In making designa-  
7                   tions of other databases under paragraph (1)(B), the  
8                   Director of the Office of Management and Budget  
9                   shall consider any database that assists in preventing  
10                  improper payments.

11                  (3) ACCESS AND REVIEW BY AGENCIES.—For  
12                  purposes of identifying and preventing improper pay-  
13                  ments, each agency shall have access to, and use of,  
14                  the Do Not Pay Initiative to determine payment or  
15                  award eligibility when the Director of the Office of  
16                  Management and Budget determines the Do Not Pay  
17                  Initiative is appropriately established for the agency.

18                  (4) PAYMENT OTHERWISE REQUIRED.—When  
19                  using the Do Not Pay Initiative, an agency shall rec-  
20                  ognize that there may be circumstances under which  
21                  the law requires a payment or award to be made to  
22                  a recipient, regardless of whether that recipient is on  
23                  the Do Not Pay Initiative.

24                  (c) DATABASE INTEGRATION PLAN.—Not later than 60  
25                  days after the date of enactment of this Act, the Director

1 of the Office of Management and Budget shall provide to  
2 the Congress a plan for—

3 (1) inclusion of other databases on the Do Not  
4 Pay Initiative;

5 (2) to the extent permitted by law, agency access  
6 to the Do Not Pay Initiative; and

7 (3) the multilateral data use agreements de-  
8 scribed under subsection (e).

9 (d) INITIAL WORKING SYSTEM.—

10 (1) ESTABLISHMENT.—Not later than 90 days  
11 after the date of enactment of this Act, the Director  
12 of the Office of Management and Budget shall estab-  
13 lish a working system for prepayment and preaward  
14 review that includes the Do Not Pay Initiative as de-  
15 scribed under this section.

16 (2) WORKING SYSTEM.—The working system es-  
17 tablished under paragraph (1)—

18 (A) may be located within an appropriate  
19 agency;

20 (B) shall include not less than 3 agencies as  
21 users of the system; and

22 (C) shall include investigation activities for  
23 fraud and systemic improper payments detection  
24 through analytic technologies and other tech-

1           *niques, which may include commercial database*  
2           *use or access.*

3           *(3) APPLICATION TO ALL AGENCIES.—Not later*  
4           *than January 1, 2013, each agency shall review all*  
5           *payments and awards for all programs of that agency*  
6           *through the system established under this subsection.*

7           *(e) MULTILATERAL DATA USE AGREEMENTS.—*

8           *(1) IN GENERAL.—Not later than 60 days after*  
9           *the date of enactment of this Act, the Director of the*  
10          *Office of Management and Budget shall develop a*  
11          *plan to establish a multilateral data use agreement*  
12          *authority to carry out this section, including access*  
13          *to databases such as the New Hire Database under*  
14          *section 453(j) of the Social Security Act (42 U.S.C.*  
15          *653(j)).*

16          *(2) PRIVACY ACT MATCHING AGREEMENTS.—Sec-*  
17          *tion 552a(o)(1) of title 5, United States Code, is*  
18          *amended in the matter preceding subparagraph (A),*  
19          *by inserting “or an agreement governing multiple*  
20          *agencies” before “specifying”.*

21          *(3) GENERAL PROTOCOLS AND SECURITY.—*

22           *(A) IN GENERAL.—In developing the multi-*  
23           *lateral data use agreements, the Director of the*  
24           *Office of Management and Budget shall establish*  
25           *implementing regulations and guidelines that in-*

1           *clude streamlined interagency processes to ensure*  
2           *agency access to data, and provide for appro-*  
3           *priate transfer and storage of any transferred*  
4           *data, in a manner consistent with relevant pri-*  
5           *vacy, security and disclosure laws.*

6           *(B) CONSULTATION.—The Director of the*  
7           *Office of Management and Budget shall consult*  
8           *with—*

9           *(i) the Council of Inspectors General*  
10          *on Integrity and Efficiency before imple-*  
11          *menting this paragraph; and*

12          *(ii) the Secretary of Health and*  
13          *Human Services, the Social Security Ad-*  
14          *ministrator, and the head of any other*  
15          *agency, as appropriate.*

16          *(f) DEVELOPMENT AND ACCESS TO A DATABASE OF IN-*  
17          *CARCERATED INDIVIDUALS.—Not later than 1 year after the*  
18          *date of enactment of this Act, the Attorney General shall*  
19          *submit to Congress recommendations for increasing the use*  
20          *of, access to, and the technical feasibility of using data on*  
21          *the Federal, State, and local conviction and incarceration*  
22          *status of individuals for purposes of identifying and pre-*  
23          *venting improper payments by Federal agencies and pro-*  
24          *grams and fraud.*

1       (g) PLAN TO CURB FEDERAL IMPROPER PAYMENTS TO  
2 DECEASED INDIVIDUALS BY IMPROVING THE QUALITY AND  
3 USE BY FEDERAL AGENCIES OF THE SOCIAL SECURITY AD-  
4 MINISTRATION DEATH MASTER FILE.—

5                 (1) ESTABLISHMENT.—In conjunction with the  
6 Commissioner of Social Security and in consultation  
7 with relevant stakeholders that have an interest in or  
8 responsibility for providing the data, and the States,  
9 the Director of the Office of Management and Budget  
10 shall establish a plan for improving the quality, accu-  
11 racy, and timeliness of death data maintained by the  
12 Social Security Administration, including death in-  
13 formation reported to the Commissioner under section  
14 205(r) of the Social Security Act (42 U.S.C. 405(r)).

15                 (2) ADDITIONAL ACTIONS UNDER PLAN.—The  
16 plan established under this subsection shall include  
17 recommended actions by agencies to—

18                     (A) increase the quality and frequency of  
19 access to the Death Master File and other death  
20 data;

21                     (B) achieve a goal of at least daily access  
22 as appropriate;

23                     (C) provide for all States and other data  
24 providers to use improved and electronic means  
25 for providing data;

1                   (D) identify improved methods by agencies  
2                   for determining ineligible payments due to the  
3                   death of a recipient through proactive  
4                   verification means; and

5                   (E) address improper payments made by  
6                   agencies to deceased individuals as part of Fed-  
7                   eral retirement programs.

8                   (3) REPORT.—Not later than 120 days after the  
9                   date of enactment of this Act, the Director of the Of-  
10                  fce of Management and Budget shall submit a report  
11                  to Congress on the plan established under this sub-  
12                  section, including recommended legislation.

13 **SEC. 6. IMPROVING RECOVERY OF IMPROPER PAYMENTS.**

14                  (a) DEFINITION.—In this section, the term “recovery  
15                  audit” means a recovery audit described under section 2(h)  
16                  of the Improper Payments Elimination and Recovery Act  
17                  of 2010.

18                  (b) IN GENERAL.—The Director of the Office of Man-  
19                  agement and Budget shall determine—

20                   (1) current and historical rates and amounts of  
21                   recovery of improper payments (or, in cases in which  
22                   improper payments are identified solely on the basis  
23                   of a sample, recovery rates and amounts estimated on  
24                   the basis of the applicable sample), including specific

1       *information of amounts and payments recovered by*  
2       *recovery audit contractors; and*

3           (2) *targets for recovering improper payments,*  
4       *including specific information on amounts and pay-*  
5       *ments recovered by recovery audit contractors.*

6       *(c) RECOVERY AUDIT CONTRACTOR PROGRAMS.—*

7           (1) *ESTABLISHMENT.—Not later than 90 days*  
8       *after the date of enactment of this Act, the Director*  
9       *of the Office of Management and Budget shall estab-*  
10      *lish a plan for no less than 10 Recovery Audit Con-*  
11      *tracting programs for the purpose of identifying and*  
12      *recovering overpayments and underpayments in 10*  
13      *agencies.*

14       *(2) RANGE OF RECOVERY AUDIT CONTRACTING*  
15      *TYPES.—Programs established under paragraph (1)*  
16      *shall be representative of different types of—*

17           (A) *programs, including programs that dif-*  
18      *fer in size, payment types, and recipient types*  
19      *(such as beneficiaries and vendors or contractors)*  
20      *across the Federal Government; and*

21           (B) *recover audit contracting (including in-*  
22      *dividual payments review and demographic*  
23      *analysis).*

24       *(3) INITIAL OPERATION OF PROGRAMS.—Not*  
25      *later than 1 year after the plan under paragraph (1)*

1       *is established, each applicable agency shall establish*  
2       *the programs included in that plan which shall be*  
3       *conducted for not more than a 3-year period.*

4           (4) *REPORTS.—*

5           (A) *IN GENERAL.—Not later than 2 years*  
6       *after establishing a program under the plan es-*  
7       *tablished under paragraph (1), the head of the*  
8       *agency conducting the program shall submit a*  
9       *report on the program to Congress.*

10          (B) *CONTENTS.—Each report under this*  
11       *paragraph shall include—*

12           (i) *a description of the impact of the*  
13       *program on savings and recoveries; and*  
14           (ii) *such recommendations as the head*  
15       *of the agency considers appropriate on ex-*  
16       *tending or expanding the program.*



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112<sup>TH</sup> CONGRESS  
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[Report No. 112-181]

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**A BILL**

To intensify efforts to identify, prevent, and recover payment error, waste, fraud, and abuse within Federal spending.

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JULY 12, 2012

Reported with an amendment